operator has a tremendous incentive to charge excessive rates to unaffiliated programmers, thereby retaining the maximum amount of system capacity for affiliated programming. Adopting a "percentage of capacity purchased" benchmark as well as an incremental cost-based presumption will help deter OVS operators from charging access rates that are artificially inflated.

4. Dispute resolution mechanism.

A non-affiliated programmer, upon filing a complaint with the Commission stating that it has been subjected to unfair rates and terms or other unjustified discriminatory access requirements, should have the right to expedited review. The complaint should set forth the particulars of the claimed discrimination,[26] and be served on the the OVSPO.

Upon receipt, the Commission should make an initial examination of the party's claim, utilizing the aforementioned market-based tests. If an OVS fails to meet the 25 percent "amount of capacity" test (or the "minimum-number" test, if adopted instead) or if its rates are more than ten-percent higher than incremental cost, the Commission should issue an order to show cause why the Commission should not find the OVSPO's rates

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[26]The claim particulars would set forth in detail, with all supporting documentation, the type of discrimination the third-party has suffered, i.e. in the rates charged, the terms for carriage imposed upon the third party, any onerous rights retained by the OVSPO (ex. "deletion rights", where the operator can terminate the agreement if the programming changes from the description in the contract), etc.

or conditions unfair or discriminatory and impose sanctions. The sanctions could include required carriage of the aggrieved party at a rate and on terms ordered by the Commission,[27] as well as restrictions on the percentage of capacity an OVSPO could program at their next scheduled capacity increase.

C. If Necessary, the Commission Should Adopt a Reasonable Rate Formula.

Under a largely voluntary regulatory structure, cable system operators thoroughly frustrated the ability of unaffiliated programmers to lease channels. As such, the results and findings of the recently issued leased access Report and Order[28] are central to the Commission's consideration of an appropriate regulatory structure to promote non-discriminatory access to OVS platforms. The core finding of the latest Leased Access Order is that section 612 of the Cable Act, as amended by the 1992 Cable Act, "overcompensates cable operators in most instances."

We strongly urge the Commission not to repeat the mistakes of the past. Assuming that a market-based regulatory mechanism does not yield non-discriminatory access, we urge the Commission to impose access rate standards on an incremental cost basis.

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[27]The programmer would have to establish that the rates were proposed prior to the complaint in a good faith effort to obtain carriage.

[28]Order on Reconsideration and Further Notice of Proposed Rulemaking (MM Dk. No. 92-266 and CS Dk. No. 96-60) (FCC 96-122) (Issued March 29, 1996) ("Leased Access Order").

IV. The Commission Should Require OVS Operators to Set Lower Rates for Not-for-profit Programmers.

One of the great shortcomings of the current cable television regulatory regime is that access rates have inhibited carriage opportunities for not-for-profit programming. Because a vast library of not-for-profit programming, including programming produced by national non-profit organizations, cannot be provided either through PEG access or through traditional public broadcasting outlets, Congress's goal of diverse sources of programming has not been realized in the cable arena.[29] The Commission must ensure that this experience is not repeated under the OVS model by requiring that carriage of not-for-profit programmers by OVS operators is affordably priced. The Coalition supports basing the reasonable rate for not-for-profit access on an incremental cost formula.

The Commission's proceedings on leased access to cable channels is a crucial example of how the public may be denied the benefit of diverse sources of programming if the rates for not-for-profit carriage are not set at an affordable level. Leased access was designed to increase diversity in programming over cable systems by requiring the system operator to offer a certain

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[29] §612 of the Cable Franchise Policy and Communications Act of 1984 attempted to "assure access to cable systems by third parties unaffiliated with the cable operator..." H. R. Rep. No. 934, 98th Cong., 2d Sess. 47 (1984)("1984 House Report").

The Commission, in its 1990 Cable Report, notes that the leased access scheme was unsuccessful in fulfilling the 1984 Cable Act's goal of increased diversity. See 1990 Cable Report, 5 Fcc Rcd 4962, 4973 (1990).

amount of channels for lease over which they exercised no editorial control. However, cable operators prevented third-party access to the channels by setting discriminatory rates and terms.[30] Subsequent attempts to revise the scheme for access to cable systems have largely been unsuccessful, and continue today.[31]

Now, with the OVS entry option into the video market, the Commission has the opportunity to implement regulations that ensure will genuninely function to make carriage possible for not-for-profit programmers.[32]

The Commission's authority to ensure "just and reasonable, and not unjust or unreasonably discriminatory" rates[33] implicitly

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[30]Examples of such rates and terms include:
-requiring potential lessees to secure an insurance policy for at least $1 million;
-charging $10,000 per month for at least the initial contract term; and
-maintaing "deletion rights", which allow the system operator to cancel the lessees agreement upon changes in its programming.
Donna N. Lampert, Cable Television: Does Leased Access Mean Least Access?, 44 Fed Comm. L.J. 245, 268(1992).

[31]Congress directed the Commission to set maximum reasonable rates under the Cable Television Consumer Protection and Competition Act of 1992, 612(c)(4)(A)(i), and the formula for determining that rate is currently being reconsidered inthe Leased Access Order rulemaking.

[32]In setting a maximum reasonable rate, Congress meant to "ensure that [leased access] channels are a genuine outlet for programmers" S. Rep. No. 138, 102d Cong., 1st Sess. 32 (1991)("1991 Senate Report").

[33]§ 653(b)(1)(A).

allows some level of just discrimination in determining rates. Whereas setting a lower reasonable rate for not-for-profit programming than the rates for like-types of programming is discriminatory, this is exactly the sort of "just" discrimination that the Act contemplates, as a previously inaccessible diverse source of programming may now receive carriage.

In order to ensure that not-for-profit rates are affordable and serve to advance Congress' goals for OVS, the annual incremental costs incurred by an OVS operator in providing a channel for access should be the basis of the rate.[34] By using this calculation, not-for-profits would be able to afford carriage on an OVS while covering the operator's annual cost of operating the channel, so as not to receive an unreasonable subsidy from the operator. This discounted price is based on a neutral and rational basis, and therefore fits within the boundaries of reasonable discrimination in determining the access rate for not-for-profits under the Act.

V. The Commission Should Establish Guidelines for the Non-discriminatory Allocation of Channel Capacity.

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[34]The annual incremental cost is determined by:
(a) ascertaining the system operator's one-time capital cost of adding a 24-hour channel; and
(b) the annual incremental operating cost for the operator of carrying the channel. The operators annual revenue requirement is determined by utilizing a standard cost recovery factor (generally 18%). The annual incremental operating cost is then added to the operator's annual revenue requirement, resulting in the annual incremental cost to the system operator. Cite CME, "Memo to Reed Hundt", June 1, 1994.

In meeting the Act's requirement that allocation of capacity on OVS platforms be nondiscriminatory, the Commission seeks comment on whether it should allow OVS operators to design their own channel allocation policies, or whether it should establish channel allocation regulations.[35]

The primary rationale for the creation of open video systems--and the only justification for abandoning a host of public policy protections which currently protect consumers and viewers from cable industry abuses--is the potential for third-party programmers to have fair, reasonable, and meaningful access to OVS platforms. The Commission must guarantee that the procedures allowing third party access are likewise just, reasonable and meaningful. Consequently, perhaps the most important determination in this proceeding is defining the "demand" for purposes of section 653(b)(1)(B). Failure to define "demand" in a way that encourages independent third parties to make such demand will nullify the congressionally imposed safeguard that affiliated programmers can control no more than one-third of the activated channels where demand exceeds capacity. This could result in the creation of a regulatory system which replicates the editorial bottleneck of cable operators, while exempting OVSPOs from the public interest regulatory requirements that govern the cable industry.

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[35]Notice, at ¶12.

OVS operators have a tremendous incentive to discriminate in favor of their programming affiliates if allowed to design their own channel allocation policies. We urge the Commission to prescribe regulations, particularly in the following areas: notice requirements, capacity measurement, allocation where demand exceeds capacity, and changes in demand after the initial allocation of capacity.

A. Operators Should Be Required to Notify the Commission of Their Intent to Establish an OVS and File a Copy of Their Terms of Affiliated Carriage.

The Coalition recommends that, as a first step toward obtaining an OVS certification, the OVSPO applicant file with the Commission, with the state PUCs, and with all franchise authorities within its proposed service area a notice of intention to apply for an OVS permit, describing with particularity the service area and services to be offered. The notice of intent should also include a showing of compliance with all procedures established to prevent cross-subsidization.[36]

At the same time, the OVSPO may file a copy of its OVSPO-affiliate contract with the Commission, PUC, and with each relevant franchise authority. If no OVSPO-affiliate contract is filed with the Commission, the OVSPO must certify that no affiliated programmers will be transmitting, and state in its

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[36]See Section I, supra.

notice that the entire capacity is available for use. In such a case, it must submit a pro forma contract in the form of a tariff approved by the state's PUC.

Within ten days of such filing, the Commission should issue a public notice which includes the appropriate OVS contact personnel for information, and a 90-day open enrollment period during which programmers may negotiate for carriage. If at the end of 90 days, three or less unaffiliated entities have failed to reach agreement for capacity on the system, the price will be presumed discriminatory, and the operator must refile its pro-forma tariff and begin another 90-day waiting period.[37] The terms will be deemed discriminatory until at least four unaffiliated programmers have contracted for capacity.

B. Final Calculation of "Demand" for Allocation Purposes Should Not Take Place until at Least Four Unaffiliated Programmers Have Applied for Space on the System and Have Concluded Arms-length Negotiations.

The Coalition recommends that "demand" be calculated using the 90-day window subsequent to the Commission's issuance of its notice that an entity plans on creating an OVS system (along with the appropriate contract and PUC documentation). Programmers

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[37]During any interim period when enrollment periods are not being held, video programming providers which intend to seek OVS carriage should be required to notify the Commission in writing, which in turn would publish a monthly notice of future programmers so OVS operators can better gauge what future system capacity demands may be and increase capacity accordingly.

demanding one channel or more pursuant to the OVSPOs public notice, shall send a letter to the OVSPO's official contact address, and send a copy of a letter requesting space to the Commission and to the state PUC.[38] Any entity requesting one channel or more shall be required to file a "good faith" bond of $100,000, which shall revert to the Commission if the requester has not sought a contract negotiation with the OVSPO within the 90-day period. A finding by the Commission of a failure by an OVSPO applicant to negotiate in good faith will terminate its certification application.

At the end of 90 days, the unaffiliated programmer will have the opportunity to either adopt the affiliate's contract or the pro-forma contract approved by the PUC, or may terminate negotiations. If there are not at least four unaffiliated programmers who have signed a contract, the OVSPO must file a new pro-forma contract with the PUC's approval, and the 90-day procedure will begin again.

C. During Initial Allocation, Each Multi-Channel Programmer Should Only Be Granted a Proportion of its Application If There Is Excess Demand, Reserving a Percentage of Channels to be Offered on an a la Carte Basis.

When demand exceeds capacity, system capacity should be allocated on a proportional basis, as opposed to by lottery or on

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[38]A copy is for evidentiary purposes only; failure to send copies to the Commission and PUC shall not be deemed a procedural error.

a first-come, first-served basis. Both lottery and first-come, first-served procedures would exclude some programmers from carriage by allowing some programmers to "win" carriage and others to "lose" the opportunity for carriage. This is detrimental to Congress' goals that there be diversity of programming sources and increased consumer choice. Both procedures would also have to be "run" twice, once for affiliated programming and once again for unaffiliated programming, which is contrary to Congress' goal that regulation be streamlined. The proportional allotment method of capacity allocation allows all programmers access[39], and helps to provide diversity to OVS' programming. Also, proportional allocation requires only one proceeding where demand is assessed and allocated, with the operators' affiliates getting a proportional amount of its one-third allotment and unaffiliated programming receiving proportional allotments of the remaining capacity.

We urge the Commission to proportionally allocate the majority of the channel capacity reserved for unaffiliated programmers to multichannel programmers, while holding 20% of the channel space in reserve for a la carte selection by single channel programmers. This method of allocation provides for even distribution amongst the larger-scale programmers while allowing the small programmer an opportunity for carriage on the OVS,

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[39]For example, if 5 programmers ask for 25 channels each on a 100 channel system, each would get 20 channels

which also helps to increase diversity of sources of programming and increased consumer choice.

OVSPOs should be prohibited from mandating channel bundling beyond that necessary to implement must-carry and PEG requirements. Customers must always have the option of purchasing any given video programming service separately, down to even one channel (although must-carry and PEG are required by law to constitute a quasi-"basic tier" which all OVS platform subscribers will receive, even if they only wish to subscribe to one additional programming service).

D. When Channel Demand Exceeds Capacity for an Operating OVS, the Commission Should Favor Increased Capacity over Channel Reallocation.

When demand exceeds the capacity of an OVS after the initial allocation of channel capacity, the Act requires the Commission to address how the OVS operator will conform to the restriction that he may only select programming on one-third of the system. The Notice suggested a method of scheduling enrollment periods for reallocating channel capacity from the operator's affiliates to unaffiliated programmers, which would satisfy the requirements of the Act.[40] But Congress' goals of increasing diversity of sources of programming and consumer choices would be best met if the Commission built time into the enrollment period for the OVS

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[40]Notice, at ¶25.

operator to increase capacity to meet demand.[41] Under this plan the operator's subscribers would be assured that they were receiving a stable programming package, while the capacity of the OVS would be increased, provided the operator meets the demands for increased capacity within a prescribed, reasonable time period. This approach would not deter OVS operators' investment in programming, and it would provide stability to the market by not forcing operators' to relinquish channel space and disrupt services to customers. An OVSPO should be required to fill any request for capacity within one year.

In the reverse situation where an OVS operator finds additional capacity has become available on the platform but not as the result of a system upgrade, that capacity should be allocable first to unaffiliated programmers.

E. OVS Providers Cannot Be Permitted to Use Capacity Formatting to Frustrate Nondiscriminatory Access.

Over the next few years, both OVS and cable systems may begin to transmit signals in a number of different formats on a market trial basis -- indeed, some proposals for digital market trials had already been proposed in conjunction with implementation of video dialtone.

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[41]For example, an OVS that has demand that exceeds capacity has the first 6 months of the enrollment period to increase capacity to meet demand. If they cannot meet demand, then they must relinquish programming until they have only selected 1/3 of the system.

The OVSPO cannot be permitted to configure its system in a way that will have the result of giving it exclusive control over programming. Arbitrary classification by OVSPOs that a certain percentage of their signal is digital only may be used to deny access to a range of unaffiliated programmers and PEG centers.

By tailoring the preferred format space, OVSPOs can keep a range of programmers off by insisting that they adopt an undesired format. This result is not what Congress intended when it created "open video systems." The only way to avoid this outcome is to treat digital and analog capacity separately, as if each were a separate OVS system.

Therefore, we recommend that the Commission measure the total capacity of an OVS by the least expansive method, as this will provide operators with incentives to increase capacity and advance the goal of diversity of programming choices.[42]

VI. PEG Access Must Be Delivered on a Franchise-Specific Basis.

A. OVS Providers must Deliver Franchise-specific PEG Programming and Comply with the Commission's Exclusivity and Non-duplication Rules.

PEG must carry rules on cable systems require operators to configure signal delivery to comply with the various contractual requirements of the franchisor. When the franchising authority

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[42]The smaller the capacity of the system, the quicker demand will exceed capacity, triggering sec. 653 (b)(1)(B) and restricting the operator's programming to only 1/3 of the system.

requests PEG access, it generally requires only that PEG access programming be distributed within that franchise area.

Consequently, all currently-operating cable systems are by definition already configured to provide specific programming to a franchise authority - or even units smaller than a franchise authority. At the same time, cable systems are also required to comply with geographic transmission limitations imposed by the Commission's sports exclusivity,[43] network non-duplication[44] and syndicated exclusivity[45] rules. The 1996 Telecommunications Act requires OVSPOs to do no less. As indicated in the declarations attached as Exhibits B and C, cable operators with clustered systems are already providing signals on a franchise authority-by-franchise authority basis, even when the remainder of their platform is transmitted from a single regional headend. As the declaration made by Gregory R. Vawter notes, the equipment necessary to allow such transmission is technologically simple -- simple enough that currently existing cable franchises are offering the ability to narrowcast as an inducement for cities to renew the incumbent's franchise.[46] During the debate of the legislation, some RBOCs claimed to be unable to provide such

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[43]47 C.F.R. 76.67 (1989).

[44]47 C.F.R. 76.92 et seq. (1988).

[45]47 C.F.R. 76.151 et seq. (1989).

[46]See "Declaration of Gregory R. Vawter" March 29, 1996) (attached in Appendix B).

"narrowcasting," even though cable systems are offering this capability to potential advertisers -- and to franchise authorities, when necessary. There is no reason that OVSPOs should not be required to do what is clearly well within their technological capabilities. And the objection that such requirements are too financially onerous are not supportable in an environment where cable systems that are already in compliance have proven their overall profitability. The Commission should not accept the provably false contentions of the industry that a franchise-by-franchise PEG access requirement will force unjustifiable financial burdens on the OVS industry.

Moreover, technological improvements to the platform suggest that overbuilds, utilizing hybrid-fiber-coaxial or fiber-optic cable, and/or switched networks, will make it significantly easier for OVSPOs to configure their systems to permit franchise-specific programming. Both hybrid fiber-coaxial cable ("HFC") and fiber optic cable vastly increase the carrying capacity of trunk lines to enable the system to carry information from multiple franchise areas simultaneously. With the advent of switched networks, consumers will be able to have a direct switched link to programmers, including PEG access centers, such that the overall capacity demand for the system would be driven by subscribers rather than programmers. Finally, and most importantly, regardless of the system, all improvements will require nodes or transmission stations where location specific

signals can be inserted without having an impact on the carrying capacity of the overall system more than the actual number of signals demanded in that franchise area. Thus, the Commission should not ease regulatory requirements at the very moment when advances in technology are making those requirements simpler and more cost-effective to meet.

The declaration prepared for the Alliance for Community Media by Dale Hatfield is particularly informative.[47] Mr. Hatfield indicates that "Fiber to the Curb" and "Fiber to the Home" technologies are the future of telecommunications, advances which will make it signifcantly easier and less expensive to narrowcast programming on a sub-franchise authority basis. PEG access are intended serve the areas recognized by the franchise authority, because the public policy behind PEG access is to encourage localism and expression by non-profit and non-commercial entities. A Commission policy that results in the same PEG channel serving an entire state would subvert both the letter and intent of 653(c)(1)(B) -- it is both significantly less than what cable operators are required to provide under ¶ 611 of the Cable Act, and contradicts the public policy behind ¶ 611, which is to guarantee that local voices and local concerns

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[47]Mr. Hatfield served as Director of the Office of Policy and Planning for the Commission, and also served as Acting Assistant Secretary fo Commerce for the National Telecommunications and Information Administration. Mr. Hatfield's declaration is attached in Appendix C.

can find a place on the NII without having to be commercially profitable.

B. All Subscribers to OVS must Be Able to Find and Watch PEG Access Channels.

The Commission should not dictate the precise terms for implementing menus, channel order, or navigational devices unless necessary to achieve fairness and meaningful non-discriminatory access. However, such intervention may be necessary if the industry does not act in good faith. Menus may allow viewers to reach more directly reach the programming or information services they desire by being able to access it through a subject classification. Menus may enable OVS viewers to receive sets of niche programming, without having to wade through significant amounts of irrelevant information. Perhaps more importantly, the menu-driven scheme may, when combined with switched digital systems, offer significantly more flexibility in allowing subscribers to access video programming. Systems could be menu driven and ordinal simultaneously.

Local PEG access centers should be listed on the same menu or placed in the same area of the dial as local broadcast stations. Placing PEG on the quasi-"basic tier" would offer a sensible structure for presenting these channels to all OVS subscribers, regardless of how other programmers, whether affiliated or unaffiliated, would be using the system.

C. The OVSPOs must Provide Advertising and Promotional Support When the Relevant Agreement Requires It, or If Failure to Provide It Is Discriminatory.

OVSPOs must provide marketing, advertising and other promotional support to PEG access when the franchise of the incumbent cable operator requires the cable operator to do so. In the absence of a contractual obligation, the OVSPO should provide these channels with the same amenities and services that it is providing to any other unaffiliated programmer, and not be permitted to treat PEG access channels in a manner inferior to similarly situated commercial channels. The OVSPO's ability to allocate channels or menus without regulatory guidance from the Commission or a local regulatory body may encourage OVSPOs to abuse their discretion by "burying" PEG channels. Section 611 of the 1984 Act creates an incentive to undercut community support for PEG access by permitting unused PEG channels to be reclaimed by the operator. Consequently, listing all local services together on the same menu or sub-menu, labeling them "local programmers," will protect the long-term viability of local public, educational and governmental access programming. The Commission should not allow OVSPOs to describe PEG programming in such a way as to undercut the likelihood that it will be viewed. Design and implementation of navigational devices should occur only with the express approval of all unaffiliated programmers, and the pre-certification documentation should indicate clearly

that the independent and non-affiliated programmers are satisfied with all rates, terms conditions and procedures for access offered by the OVSPO. Programmers should be given the opportunity to decide how they will be placed on the system, instead of allowing the OVSPO to potentially sabotage competitors' programming by prohibiting unaffiliated programmers from describing their services in the manner they choose.

VII. Cable Operators Should not be Permitted to Operate OVS Platforms.

A. The 1996 Telecommunications Act Prohibits Cable Operators from Becoming OVSPOs.

The structure and legislative history of the 1996 Telecommunications Act provides conclusive evidence that Congress intended that only common carriers could become OVSPOs. First, Section 653 was included in Part V or Title VI of the Communications Act, added by Section 302 of the 1996 Act. The introductory clause of section 302 specifically limits its applicability to cable service provided by telephone companies. The title of Part V also indicates the intent of Congress that it only govern "video programming services by telephone companies." Likewise, in relevant part, the legislative history provides:

> "New section 651 of the Communications Act specifically addresses the regulatory treatment of video programming services provided by telephone companies. Recognizing that there can be different strategies, services and technologies for entering video markets, the conferees agree to multiple entry options to promote competition, to encourage

investment in new technologies and to maximize consumer choice of services... "[48]

Congress' reasoning in creating "open video systems," like the Commission's rationale in creating "video dialtone," was that telephone companies needed a modified regulatory regime to draw them into the business of providing video programming services.

B. Section 651(c) Gives Cable Operators the Option of Using OVS Platforms, Not of Being a Platform Operator.

The legislative history of the Act offers cable operators an opportunity to use an OVS platform to offer cable services to customers instead of, or in addition to using their own facilities. The logic of this provision is clearly a response to instances in which VDT operators attempted to persuade the Commission that the VDT platform operator had the right to exclude an incumbent cable operator from space on their system. The 1996 Act was meant to draw telephone companies into the video programming market, not to allow already existing cable operators to escape their responsibilities to the public interest by providing a convenient exit from rate regulation and local public oversight.

C. To Maintain a Level Playing Field, OVSPO Fees in Lieu of Franchise Fees Should be Imposed on the Gross Revenue of the Video Pipeline, not just the OVSPO's Programming Affiliate.

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[48]Conference Report, H.Rep. 104-458 (1996) at 171-172 (emphasis added).

In keeping with the law's requirement that the fees maintain an equivalency to the fees imposed by franchise authorities on cable operators, the fees must be imposed on the gross revenue of the pipeline, not just of the OVSPO's programming affiliate.[49] Calculations of a fee on this basis will maintain a level playing field between OVSPOs and cable operators. In this regard, the Coalition endorses comments being filed in this proceeding by the National League of Cities, the National Association of Counties, the National Association of Telecommunications Officers and Advisors, et al. We share their view that franchise authorities should continue to be able to exercise their traditional legal rights to control and administer public rights-of-way even in the context of OVS. The continued exercise of these rights is vital to protect OVS consumers and unaffiliated programmers who wish to use OVS platforms.

Conclusion

For the foregoing reasons, the Coalition urges the Commission to adopt rules requiring telephone companies to offer video programming on an open video system only through a fully separated subsdiary, ensuring PEG centers access to, and support on, OVS platforms, establishing market-based regulatory mechanisms to ensure rates and access terms that are fair and reasonable and not unjustly discriminatory, establishing

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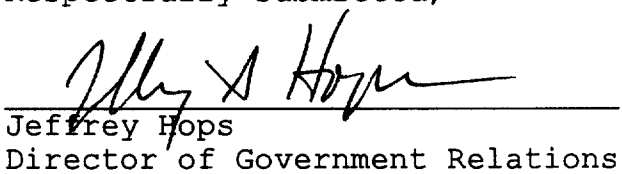
[49]Section 653 (c)(2)(B).

discounted rates for not-for-profit programmers based on an operator's incremental cost, and prohibiting cable operators from becoming OVS platform operators.

Respectfully submitted,



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APPENDIX A

The Alliance for Community Media

The Alliance for Community Media is a national membership organization comprised of more than thirteen hundred organizations and individuals in more than seven hundred communities. Members include access producers, access center managers and staff members, local cable advisory board members, city cable officials, cable company staff working in community programming, and others involved in public, educational and governmental ("PEG") access programming around the country. The Alliance assists in all aspects of community programming, from production and operations to regulatory oversight.

PEG access centers produce and transmit local non-commercial, non-profit, educational and public affairs television programming on local cable systems, pursuant to local franchise agreements authorized by Section 611 of the 1984 Cable Act (47 U.S.C. Sec. 531). As such, the Alliance represents the interests of religious, community, educational, charitable and other non-commercial non-profit institutions who utilize PEG access centers and facilities to speak to their memberships and their large communities, and participate in an ever-growing "electronic town hall." It expresses the concerns of all Americans who believe that the tremendous resources of the Information Age should be made available to "at-risk" communities that otherwise would have insufficient means.

In jurisdictions unserved by their own local broadcast stations (rural and suburban communities and neighborhoods of large urban areas), PEG access is the only means by which residents receive truly local programming. In places as diverse as Salem, Oregon and Staten Island, New York, PEG access programming allows cable subscribers to participate in events and activities of importance to local residents, from televised plays and concerts to local school board meetings and town council elections. PEG access also provides a forum for local religious education programming, community college courses, high school football games, and GED programs. Whether urban, suburban or rural, PEG access permits a level of variety and diversity of communication which is simply unavailable on commercial broadcast television stations.

Pursuant to a franchise agreement between a cable operator and a franchising authority, a cable operator may be required to provide access, services, facilities and equipment to make PEG access possible. Franchise authorities will often provide a portion of their franchise fees to support PEG access. PEG access is popular -- it involves the participation of more than 1.2 million volunteers annually, and produces more than 20,000 hours of original television programming per week -- more than CBS, NBC, ABC, Fox and PBS combined.

APPENDIX B